

ATTACHMENT B

AN ORDINANCE TO AMEND PROVISIONS OF THE UNIFIED DEVELOPMENT ORDINANCE REGULATING FENCES

WHEREAS, the Durham City Council wishes to amend certain provisions regarding fences in the Unified Development Ordinance to better promote the community's health, safety, and welfare;

NOW, THEREFORE, be it ordained that Article 9, Landscaping and Buffering, are amended to make the following changes:

SECTION 1

Modify Article 9, Landscaping and Buffering, Sec. 9.9, Fences and Walls, paragraph 9.9.1, Height, paragraphs A, C, and D, and paragraph 9.9.2, Fences, paragraph B and new paragraph D, Electric Fences, as set forth below.

Sec. 9.9 Fences and Walls

9.9.1 Height

- A. The maximum height of a fence or wall shall be as shown in the table below, unless:
1. A higher fence or wall is allowed by other provisions of this Ordinance; or
 2. The fence is associated with a recreational facility, such as a tennis court; or
 3. The fence is associated with an electrical substation; or
 4. As required by the U.S. Department of Homeland Security.

	Maximum Height, in Feet				
	Rural	Suburban	Urban	Compact	Downtown
Street Frontage*					
By Right, Non-electric	8	4	4	4	4
With a Minor Special Use Permit:					
Non-electric		8	8	8	8
Electric	10	10	10	10	10
No Street Frontage					
By Right, Non-electric	8	8	8	8	8
By Right, Electric	10	10	10	10	10

***Note:** Fences and walls located between the front of a structure and the right-of-way shall meet this standard, unless the fence or wall is more than 50 feet from the right-of-way, in which case the "No Street Frontage" standards shall apply.

[Paragraph B is omitted.]

- C. Where a minor special use permit is required as indicated in the table found within paragraph 9.9.1A, the following findings shall be made in addition to those required in paragraphs 3.9.8, Criteria for Approval of Major and Minor Special Use Permits:

1. That the fence or wall does not impede the natural light from reaching the subject or surrounding properties to their detriment;
2. That normal circulation of air is not unreasonably impeded by the fence or wall for the subject or surrounding properties;
3. That the fence or wall will not hinder access to the subject or surrounding properties for emergency services;
4. That the fence or wall shall be reasonably compatible with the surrounding properties in that it will not adversely affect property values; and
5. That vision clearances for pedestrian and vehicular traffic will not be impeded.

Conditions may be specified to protect the welfare of the neighborhood and adjacent properties.

D. Exception to requirement of a minor special use permit

When a certificate of appropriateness (COA) is required for a fence or wall, a minor special use permit is not required.

9.9.2 Fences

[Paragraphs A and C are omitted.]

- B.** Razor wire, concertina wire, barbed wire, and similar fencing materials shall be prohibited in all residential districts and in sites adjacent to residential uses, except in the Rural Tier. Barbed wire is allowed in all development tiers where associated with a major or minor utility.

D. Electric Fences

- 1. Applicability and Approvals.** The construction or use of an electric fence for other than animal control shall be allowed only as provided in this section. The construction or use of an electric fence under this section shall not be considered development for purposes of Sec. 3.7, Site Plan Review. It shall be unlawful for any person to install, maintain, or operate an electric fence in violation of this section.
- 2. Uses and Locations.**
 - a. Electric fences shall be allowed in conjunction with following uses:
 - i. Government facilities in paragraph 5.2.4D, Government Facilities;
 - ii. Utilities in paragraph 5.2.4J, Utilities; and
 - iii. Industrial uses in Sec. 5.2.7, Industrial Use Categories.
 - b. Electric fences are not permitted within Design Districts.
 - c. A minor special use permit is required for electric fences located within “street frontage” as referenced in the table in paragraph 9.9.1A.

- d. An electric fence shall be allowed in conjunction with a use or location not otherwise authorized by this section if it is required by the U.S. Department of Homeland Security.

3. General Standards.

- a. Electric fences shall only be battery-powered with a maximum 12-volt direct current.
- b. The electric charge produced by an electric fence upon contact shall not exceed energizer characteristics set forth in paragraph 22.108 and depicted in Figure 102 of International Electro Technical Commission (IEC) Standard No. 60335-2-76, latest edition.
- c. Electric fence cabling and wires shall not be connected to an overhead power line post.
- d. An electric fence shall not interfere with overhead utility lines or the maintenance of those lines.
- e. An electric fence shall not interfere with the transmission of power, telephone, radio, television, or data.
- f. The electric fence system shall contain a cut-off switch capable of disconnecting the electric fence in its totality from all energizers. Such switch shall be clearly marked and easily observable and accessible from a primary path of entry for emergency and enforcement personnel.
- g. Warning signs shall be installed.

4. Perimeter Fence or Wall.

a. General.

- i. A perimeter fence or wall shall be required.
- ii. An electric fence shall be completely interior to the perimeter non-electric fence or wall.
- iii. When the adjacent property is a residential district or use, the perimeter fence or wall visible from that property shall be either:
 - a. A minimum 80% opaque; or
 - b. Located behind an evergreen hedge that achieves a minimum height of six (6) feet and 80% opacity within three (3) years of planting; or
 - c. Located behind an existing or proposed project boundary buffer.
- iv. The lowest portion of a perimeter fence or wall shall be constructed so that no space exists between the ground and the fence or wall.

b. Spacing.

- i. An electric fence shall be separated from the perimeter fence or wall, except at gate openings, by either four (4) to eight (8) inches or more than three (3) feet.

- ii. Except at gates, no part of a perimeter fence or wall shall contact the electric fence.
- iii. The area between the electric fence and perimeter fence or wall shall be unobstructed.
- c. **Height.** An electric fence shall be at least two (2) feet taller than the perimeter fence or wall.

[Paragraphs 9.9.3 through 9.9.5 are omitted.]

SECTION 2

That the Unified Development Ordinance shall be renumbered as necessary to accommodate these changes and clarifications.

SECTION 3

That this amendment of the Unified Development Ordinance shall become effective upon adoption.